

1 WILDE & ASSOCIATES

2 Gregory L. Wilde, Esq.

3 Nevada Bar No. 004417

4 208 South Jones Boulevard

5 Las Vegas, Nevada 89107

6 Telephone: 702 258-8200

7 Fax: 702 258-8787

8 and

9 MARK S. BOSCO, ESQ.

10 Arizona Bar No. 010167

11 TIFFANY & BOSCO, P.A.

12 2525 East Camelback Road, Suite 300

13 Phoenix, Arizona 85016

14 Telephone: (602) 255-6000

15 Deutsche Bank National Trust Company as Trustee under the Pooling and Servicing Agreement dated as  
16 of January 1, 2007, GSAMP Trust 2007-FM1  
17 09-78059

18 UNITED STATES BANKRUPTCY COURT  
19 SOUTHERN DISTRICT OF NEVADA

20 In Re:

09-16427-lbr

21 David O'Leary and Nita O'Leary

MS Motion No.

Date:

Time:

Chapter 13

22 Debtors.

23 DECLARATION RE BREACH OF CONDITION

24 STATE OF Texas )

)ss.

25 COUNTY OF \_\_\_\_\_ HARRIS)

26 I, Nancy Rexford declare and state:

1. As to the following facts, I know them to be true of my personal knowledge, and if called upon to testify in this action, I could and would testify competently thereto.

2. I am an employee of Litton Loan Servicing LP, servicer for Deutsche Bank National Trust Company as Trustee under the Pooling and Servicing Agreement dated as of January 1, 2007, GSAMP Trust 2007-FM1, Secured Creditor herein, and am most familiar with the

1 loan and the ongoing litigation.

2 3. The real property subject to the Trust Deed is commonly described as 4708 Compass Bow  
3 Lane, Las Vegas, NV 89130 and legally described as follows:

4 PARCEL I:

5 LOT THREE (3) IN BLOCK TWO (2) OF RANCHO ALTA MIRA LOT 9 - # 2, AS SHOWN BY  
6 MAP THEREOF IN FILE IN BOOK 49 OF PLATS, PAGE 42 IN THE OFFICE OF THE  
COUNTY RECORDER OF CLARK COUNTY, NEVADA.

7 PARCEL II:

8 A NON-EXCLUSIVE EASEMENT FOR INGRESS AND EGRESS FRO AND ENJOYMENT  
9 OF THE COMMON AREA ASSET FORTH IN THE MASTER DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTION RECORDED MAY8, 1990 IN BOOK  
900508 AS INSTRUMENT NO. 677, OFFICIAL RECORDS.

10 4. I have examined the document entitled "Order Regarding Adequate Protection", a copy of  
11 which is attached hereto and marked as Exhibit "A" and incorporated herein by this reference, and am  
12 representing my personal knowledge as to whether the Debtors have complied with the requirements of said  
13 Order.

14 5. Pursuant to the aforementioned Order, the Debtors would have fifteen (15) days from the  
15 date of this Declaration in which to cure the delinquencies due. If upon the 16<sup>th</sup> day, Debtors has failed to  
16 so cure those delinquencies, the automatic Stay Order would be vacated and extinguished as to this Secured  
17 Creditor.

18 6. As of the date of this Declaration, the Debtors have not made the payments as required by  
19 the aforementioned Order. The Debtors are presently past due as follows:

20 1 Monthly Payment	\$2,849.46
(August 1, 2010)	
21 1 Adequate Protection Charge	\$3,652.09
(July 20, 2010)	
22 Total	\$6,501.55

23 7. Debtors are responsible for the subsequent payments that will come due during this  
24 Breach period:

- 25 a. 1 Monthly Payment at \$2,849.46  
26 b. 1 Stipulated payment at \$3,652.09

**PARTIAL TENDERS WILL NOT BE ACCEPTED**

1 8. Due to Debtors' failure to timely and properly comply with the Order as set forth  
2 hereinabove, Secured Creditor has been forced to incur additionally attorneys' fees to obtain relief from the  
3 Stay Order to take possession of its real property.

4 9. These attorneys' fees are in addition to attorneys' fees incurred prior to the non-compliance  
5 and are now owing to Secured Creditor from Debtors pursuant to the Trust Deed.

6 10. Should the Debtor cure the default, the Debtors must forward the funds to:

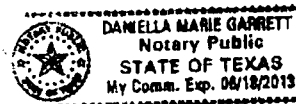
7 **GREGORY L. WILDE, ESQ.**  
8 **WILDE & ASSOCIATES**  
9 **212 South Jones Boulevard**  
10 **Las Vegas, Nevada 89107**

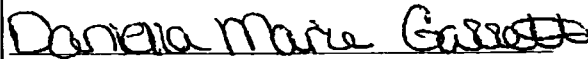
11 I declare under penalty of perjury that the foregoing is true and correct.

12   
13

Bankruptcy Specialist

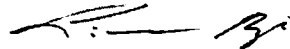
14 SUBSCRIBED and SWORN to before me  
15 this 9<sup>th</sup> day of September, 2010



16   
17 Notary Public in and for said  
18 State and County TEXAS, Harris



Entered on Docket  
July 16, 2010

  
Hon. Linda B. Riegle  
United States Bankruptcy Judge

WILDE & ASSOCIATES

Gregory L. Wilde, Esq.

Nevada Bar No. 004417

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Deutsche Bank National Trust Company as Trustee under the Pooling and Servicing Agreement  
dated as of January 1, 2007, GSAMP Trust 2007-FM1  
09-78059

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEVADA**

In Re:

David O'Leary and Nita O'Leary

Debtors.

BK-S-09-16427-lbr

MS Motion No.

Date:

Time:

Chapter 13

**ORDER RE ADEQUATE PROTECTION**

Secured Creditor's Motion for Relief from the Automatic Stay having come on for hearing  
in the above-entitled Court, all appearances as noted on court record, and based upon all the  
papers and pleadings on file herein and good cause appearing therefore.

EXHIBIT "A"

1 IT IS HEREBY ORDERED, ADJUDGED and DECREED that the debtors will cure the  
2 post-petition arrearages currently due as follows:

3 7 Monthly Payments(s) at \$2,849.46	\$19,946.22
(October 1, 2009 - July 1, 2010)	
4 9 Late Charge(s) at \$146.05	\$1,314.45
(October 1, 2009 - June 15, 2010)	
5 Motion for Relief Filing Fee	\$150.00
6 Attorneys Fees	\$750.00
Suspense Amount	(\$248.16)
7 Total	\$21,912.51

8  
9 The total arrearage shall be paid in six monthly installments. Payments one  
10 through five (1-5) in the amount of \$3,652.09 shall be in addition to the regular monthly payment  
11 and shall be due on or before the 20th day of the month commencing with the July 20, 2010  
12 payment and continuing throughout and concluding on or before November 20, 2010. The sixth  
13 final payment in the amount of \$3,652.06 shall be paid on or before December 20, 2010.

14 IT IS FURTHER ORDERED, ADJUDGED and DECREED that the Secured Creditor  
15 shall give Debtors at least five business days' notice of the time, place and date of sale.

16 IT IS FURTHER ORDERED, ADJUDGED and DECREED that the Debtors shall resume  
17 and maintain the regular monthly payments in a timely fashion, outside of any Bankruptcy Plan.  
18 beginning with the August 1, 2010 payment, on Secured Creditor's Trust obligation, encumbering  
19 the subject Property, generally described as 4708 Compass Bow Lane, Las Vegas, NV 89130, and  
20 legally described as follows:

21 PARCEL I:

22 LOT THREE (3) IN BLOCK TWO (2) OF RANCHO ALTA MIRA LOT 9 - # 2, AS  
23 SHOWN BY MAP THEREOF IN FILE IN BOOK 49 OF PLATS, PAGE 42 IN THE  
OFFICE OF THE COUNTY RECORDER OF CLARK COUNTY, NEVADA.

24 PARCEL II:

25 A NON-EXCLUSIVE EASEMENT FOR INGRESS AND EGRESS FROM AND  
26 ENJOYMENT OF THE COMMON AREA SET FORTH IN THE MASTER  
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS RECORDED  
MAY 8, 1990 IN BOOK 900508 AS INSTRUMENT NO. 677, OFFICIAL RECORDS.


IT IS FURTHER ORDERED, ADJUDGED and DECREED that if the Debtors fail to make  
any payments as stated in this Order, or fail to maintain the regular monthly payments on Secured  
Creditor's Trust Deed obligation, allowing the normal grace period, then Secured Creditor may file

1 and serve upon Debtors and Debtors' counsel, a fifteen (15) Day Notice Declaration Re Breach of  
2 Condition. For each such Declaration Re Breach of Condition filed, there shall be assessed an  
3 attorney fees of \$100.00, to be paid by the Debtors upon any reinstatement. If upon the sixteenth  
4 (16th) day Debtors have failed to cure the delinquency, then Secured Creditor may submit to this  
5 Court an Order vacating the automatic stay as to Secured Creditor, and Secured Creditor may  
6 thereafter proceed with foreclosure proceedings upon the subject Property, pursuant to applicable  
7 State Law, and take any action necessary to obtain complete possession thereof.

8  
9 Submitted/by:

10 WILDE & ASSOCIATES

11  
12 By

  
GREGORY L. WILDE, ESQ.

13 Attorneys for Secured Creditor  
14 212 South Jones Boulevard  
Las Vegas, Nevada 89107

15 APPROVED AS TO FORM & CONTENT:

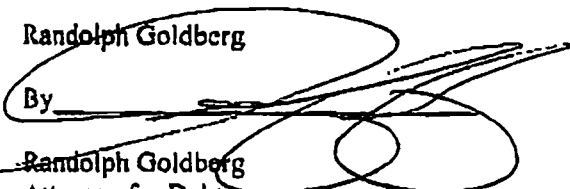
16 Kathleen A Leavitt

17 By

  
18 Kathleen A Leavitt  
19 Chapter 13 Trustee  
20 201 Las Vegas Blvd., So. #200  
Las Vegas, NV 89101

Randolph Goldberg

By

  
Randolph Goldberg  
Attorney for Debtors  
4000 S. Eastern Ave., #200  
Las Vegas, NV 89119

21  
22 Nevada Bar No. 10972  
23  
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26

1 In accordance with Local Rule 9021, the undersigned counsel certifies as follows (check one):

2 ☐ The court waived the requirements of LR 9021.

3 ☐ No parties appeared or filed written objections, and there is no trustee appointed in the case.

4 ☐ No parties appeared or filed written objections, and the trustee is the movant.

5 ☒ This is a chapter 7 or 13 case, and either with the motion, or at the hearing, I have delivered a  
6 copy of this proposed order to all counsel who appeared at the hearing, and any trustee  
7 appointed in this case, any unrepresented parties who appeared at the hearing, and each has  
8 approved or disapproved the order, or failed to respond, as indicated below: .

9 Debtor's counsel:

10 ☒ approved the form of this order ☐ disapproved the form of this order

11 ☐ waived the right to review the order and/or ☐ failed to respond to the document

12 ☐ appeared at the hearing, waived the right to review the order

13 ☐ matter unopposed, did not appear at the hearing, waived the right to review the order

14 Trustee:

15 ☒ approved the form of this order ☐ disapproved the form of this order

16 ☐ waived the right to review the order and/or ☐ failed to respond to the document

17 ☐ This is a chapter 9, 11, or 15 case, and I have delivered a copy of this proposed order to all  
18 counsel who appeared at the hearing, and any trustee appointed in this case any unrepresented  
19 parties who appeared at the hearing, and each has approved or disapproved the order, or failed to  
20 respond, as indicated below.

21 Debtor's counsel:

22 ☐ approved the form of this order ☐ disapproved the form of this order

23 ☐ waived the right to review the order and/or ☐ failed to respond to the document

24 ☐ appeared at the hearing, waived the right to review the order

25 ☐ matter unopposed, did not appear at the hearing, waived the right to review the order

26 Trustee:

☐ approved the form of this order ☐ disapproved the form of this order

☐ waived the right to review the order and/or ☐ failed to respond to the document

☐ I certify that I have served a copy of this order with the motion, and no parties appeared or filed  
written objection.

Submitted by:

/s/ Gregory L. Wilde, Esq.

Gregory L. Wilde, Esq.

Attorney for Secured Creditor

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2 Gregory L. Wilde, Esq.  
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18 UNITED STATES BANKRUPTCY COURT  
19 SOUTHERN DISTRICT OF NEVADA

20 In Re:  
21 David O'Leary and Nita O'Leary  
22  
23 Debtors.

24 09-16427-lbr  
25 MS Motion No.  
26 Date:  
Time:  
Chapter 13

27 **CERTIFICATE OF MAILING OF**  
28 **DECLARATION RE BREACH OF CONDITION**

29 1. On 9/14/10 I served the following document(s):

30 DECLARATION RE BREACH OF CONDITION

31 2. I served the above-named document(s) by the following means to the persons as listed below:

32 X a. ECF System



1 Randolph Goldberg  
2 randolphgoldberg@yahoo.com  
3 Attorney for Debtors

4 Kathleen A Leavitt  
5 courtsecf3@las13.com  
6 Trustee

7 **X b. United States mail, postage fully prepaid:**

8 David O'Leary and Nita O'Leary  
9 4708 Compass Bow Lane  
10 Las Vegas, NV 89130  
11 Debtors

12 ☐ **c. Personal Service** (List persons and addresses. Attach additional paper if necessary)

13 I personally delivered the document(s) to the persons at these addresses:

14 ☐ 1. For a party represented by an attorney, delivery was made by handing the  
15 document(s) to the attorney's office with a clerk or other person in charge, or if no one is charge  
16 by leaving the document(s) in a conspicuous place in the office.

17 N/A

18 ☐ 2. For a party, delivery was made by handing the document(s) to the party or  
19 by leaving the document(s) at the person's dwelling house or usual place of abode with someone  
20 of suitable age and discretion residing there.

21 N/A

22 ☐ **d. By direct mail** (as opposed to through the ECF System)

23 *(List persons and email addresses. Attach additional paper if necessary)*

24 Based upon the written assignment of the parties to accept service by email or a court order, I  
25 caused the document(s) to be sent to the persons at the mail addresses listed below. I did not  
26 receive, within a reasonable time after the transmission, any electronic message or other  
indication that the transmission was unsuccessful.

☐ **e. By fax transmission** *(List persons and fax numbers. Attach additional paper if necessary)*

Based upon the written assignment of the parties to accept service by fax transmission or  
a court order, I faxed the document(s) to the persons at the fax numbers listed below. No error

1 was reported by the fax machine that I used. A copy of the record of the fax transmission is  
2 attached.  
3

4 ☐ f. By messenger *(List persons and addresses. Attach additional paper if necessary)*  
5

6 I served the document(s) by placing them in an envelope or package addressed to the  
7 persons at the addresses listed below and providing them to a messenger for service.  
8 *( A declaration by the messenger must be attached to this Certificate of Service).*  
9

10 I declare under penalty of perjury that the foregoing is true and correct.  
11

12 Signed on :   
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